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# HOUSE BILL No. 1016

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-24; IC 9-29-13-1; IC 9-30; IC 31-37.

**Synopsis:** Driver's license privileges. Provides that if a court recommends suspension of a person's driving privileges and the person has no earlier conviction of operating while intoxicated or has only an earlier conviction that occurred at least ten years before the offense under consideration, and the person did not refuse to submit to a chemical test, the court may grant probationary driving privileges. Provides that if a person has been convicted twice in a ten year period of operating a vehicle or a motorboat while intoxicated, the court shall order each motor vehicle owned or leased by the person to be equipped with a functioning certified ignition interlock device, and if the court grants probationary driving privileges, the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device. Makes it a Class B misdemeanor if a person knowingly or intentionally authorizes or permits a motor vehicle to be driven by a person whose driving privileges have been suspended and who does not have probationary driving privileges. Requires a 30 day driver's license suspension for a person convicted of this crime. Makes it a Class B infraction if a person fails to equip each vehicle owned or leased by the person with a functioning certified ignition interlock device within 10 days after an order by the court. Makes conforming amendments.

**Effective:** July 1, 2002.

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## Duncan, Cook

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January 8, 2002, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1016

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A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 9-24-15-9 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) Except as  
3       provided in ~~subsection~~ **subsections (b) and (c)** and section 6.5 of this  
4       chapter, an individual may not receive a restricted driving permit if the  
5       individual's driving privileges are suspended under IC 9-30-5 through  
6       IC 9-30-9 or IC 9-30-13-3.

7       (b) If the individual's driving privileges are suspended under  
8       IC 9-30-6-9(b) and the individual does not have a previous conviction  
9       for operating while intoxicated, the individual may receive a restricted  
10      driving permit if the individual otherwise qualifies for the permit.

11      **(c) If the individual's driving privileges are suspended under**  
12      **IC 9-30-5-10.5, the individual may receive a restricted driving**  
13      **permit if the individual otherwise qualifies for the permit.**

14      SECTION 2. IC 9-24-18-4 IS AMENDED TO READ AS  
15      FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. **(a) Except as**  
16      **provided in subsection (b), a person may not authorize or who**  
17      **knowingly permit or intentionally authorizes or permits a motor**



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vehicle owned by the person or under the person's control to be driven by a person who does not have a legal right to do so or in violation of this title

~~(b) A person who violates this section~~ commits a Class C infraction.

**(b) A person who knowingly or intentionally authorizes or permits a motor vehicle owned by the person or under the person's control to be driven by another person:**

**(1) whose driving privileges have been suspended under IC 9-30-5-10; and**

**(2) who does not have probationary driving privileges granted under IC 9-30-5-10;**

**commits a Class B misdemeanor.**

**(c) A conviction for an offense under subsection (b) must result in the suspension of the driving privileges of the convicted person.**

**(d) The court imposing sentence for a violation under subsection (b) shall issue an order to the bureau:**

**(1) stating that the person has been convicted of an offense under subsection (b); and**

**(2) ordering suspension of the person's driving privileges under IC 9-30-5-10.5(a).**

**The suspension of a person's driving privileges under this section is in addition to other penalties prescribed by IC 35-50-3-3 for a Class B misdemeanor.**

SECTION 3. IC 9-29-13-1, AS AMENDED BY P.L.117-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The fee for the reinstatement of operating or registration privileges that have been suspended by administrative action under this title or by court order under **IC 9-24-18-4(d) or IC 9-25-6-21** is ten dollars (\$10).

SECTION 4. IC 9-30-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) A person who violates a court order issued under section 16 of this chapter commits a Class A misdemeanor.

(b) Except as provided in subsection (c), a person who knowingly assists another person who is restricted to the use of an ignition interlock device to violate a court order issued under this chapter commits a Class A misdemeanor.

(c) Subsection (b) does not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device:

(1) is done for the purpose of safety or mechanical repair of the device or the vehicle; and



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(2) the restricted person does not operate the vehicle.

(d) A person who, except in an emergency, knowingly rents, leases, or loans a motor vehicle that is not equipped with a functioning ignition interlock device to a person who is restricted under a court order to the use of a vehicle with an ignition interlock device commits a Class A infraction.

(e) A person who is subject to an ignition interlock device restriction and drives another vehicle in an emergency situation must notify the court of the emergency within twenty-four (24) hours.

**(f) A person who fails to equip each vehicle owned or leased by the person with a functioning certified ignition interlock device within ten (10) days after the court enters an order under section 10(d) or 10(e) of this chapter commits a Class B infraction.**

SECTION 5. IC 9-30-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If:

**(1) a court recommends suspension of a person's driving privileges under subsection (b) for an offense committed under this chapter; and**

**(2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense;**

**the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.**

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court

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shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. **The court shall order that each motor vehicle owned or leased by the person be equipped with a functioning certified ignition interlock device under IC 9-30-8 within ten (10) days after the date the court enters the order.** The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court ~~may~~ **shall** order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

~~(d)~~ **(e)** If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. **The court shall order that each motor vehicle owned or leased by the person be equipped with a functioning certified ignition interlock device under IC 9-30-8 within ten (10) days after the date the court enters the order.** The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court ~~may~~ **shall** order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

~~(e)~~ **(f)** If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

~~(f)~~ **(g)** If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, the court shall recommend the

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suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 6. IC 9-30-5-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 10.5. (a) Upon receiving an order issued by a court under IC 9-24-18-4(d)(2), the bureau shall do the following:**

**(1) Suspend under subsection (b) the driving privileges of the person who is the subject of the order, whether or not the person's current driver's license accompanies the order.**

**(2) Mail to the last known address of the person who is the subject of the order a notice:**

**(A) stating that the person's driver's license is being suspended because the person violated IC 9-24-18-4(b) by permitting a motor vehicle to be driven by another person whose driver's license is suspended;**

**(B) setting forth the dates on which the suspension takes effect and ends; and**

**(C) stating that the person may be granted a restricted driving permit under IC 9-24-15-9(c) if the person meets the conditions for obtaining a restricted driving permit.**

**(b) The suspension of the driving privileges of a person who is the subject of an order issued under IC 9-24-18-4(d):**

**(1) begins five (5) business days after the date on which the bureau mails the notice to the person under subsection (a)(2); and**

**(2) ends thirty (30) days after the suspension begins.**

**(c) A person who operates a motor vehicle during a suspension of the person's driving privileges under this section commits a Class A infraction unless the person's operation of the motor vehicle is authorized by a restricted driving permit issued to the person under IC 9-24-15-9(c).**

SECTION 7. IC 9-30-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 11. (a) If a court grants a person probationary driving privileges under ~~section 12~~ of this chapter, the person may operate a vehicle only as follows:**

**(1) To and from the person's place of employment.**

**(2) For specific purposes in exceptional circumstances.**

**(3) To and from a court-ordered treatment program.**

**(b) If the court grants the person probationary driving privileges under ~~section 12(a)~~ **section 10(c)** of this chapter, that part of the court's order granting probationary driving privileges does not take effect until the person's driving privileges have been suspended for at least thirty**

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(30) days under IC 9-30-6-9.

(c) The court shall notify a person who is granted probationary driving privileges of the following:

(1) That the probationary driving period commences when the bureau issues the probationary license.

(2) That the bureau may not issue a probationary license until the bureau receives a reinstatement fee from the person and the person otherwise qualifies for a license.

SECTION 8. IC 9-30-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. ~~(a) If:~~

~~(1) a court recommends suspension of a person's driving privileges under section 10(b) of this chapter for an offense committed under this chapter; and~~

~~(2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense;~~

the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.

~~(b) An order~~ **(a) All orders** for probationary privileges must be issued in accordance with sections 11 and 13 of this chapter.

~~(c)~~ **(b)** If:

(1) a court recommends suspension of a person's driving privileges under section ~~10(c)~~, 10(d), ~~or~~ 10(e), **or 10(f)** of this chapter for an offense committed under this chapter; and

(2) the period of suspension recommended by the court exceeds the minimum permissible fixed period of suspension specified under section 10 of this chapter;

the court may stay the execution of that part of the suspension that exceeds the minimum fixed period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

~~(d)~~ **(c)** In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under ~~section 10(f)~~ **section 10(g)** of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

~~(e)~~ **(d)** Before a court may grant probationary driving privileges under this section, the person to whom the probationary driving privileges will be granted must meet the burden of proving eligibility to receive probationary driving privileges.

SECTION 9. IC 9-30-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) An order for probationary driving privileges granted under ~~section 12~~ of this chapter

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must include the following:

- (1) A requirement that the person may not violate a traffic law.
- (2) A restriction of a person's driving privileges providing for automatic execution of the suspension of driving privileges if an order is issued under subsection (b).
- (3) A written finding by the court that the court has reviewed the person's driving record and other relevant evidence and found that the person qualifies for a probationary license under ~~section 12~~ of this chapter.
- (4) Other reasonable terms of probation.

(b) If the court finds that the person has violated the terms of the order granting probationary driving privileges, the court shall order execution of that part of the sentence concerning the suspension of the person's driving privileges.

SECTION 10. IC 9-30-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. If a court orders the installation of a certified ignition interlock device under:

**(1) IC 9-30-5-10 on a motor vehicle that a person whose license is suspended; or**

**(2) IC 9-30-5-16 on a motor vehicle that a person whose license is restricted;**

owns, **leases**, or expects to operate, the court shall set the time that the installation must remain in effect. However, the term may not exceed the maximum term of imprisonment the court could have imposed. The person shall pay the cost of installation.

SECTION 11. IC 31-37-5-7, AS ADDED BY P.L.32-2000, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) If a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult, a juvenile court shall recommend the immediate suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(b) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau



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shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in ~~IC 9-30-5-12~~. **IC 9-30-5-10(c)**. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

SECTION 12. IC 31-37-19-17.3, AS ADDED BY P.L.32-2000, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17.3. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense under IC 9-30-5.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, recommend the suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(c) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

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(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(e) If:

(1) a juvenile court recommends suspension of a child's driving privileges under this section; and

(2) the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in ~~IC 9-30-5-12~~. **IC 9-30-5-10(c)**. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(g) A child whose driving privileges are suspended under this section is entitled to credit for any days during which the license was suspended under IC 31-37-5-7, if the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult.

(h) A period of suspension of driving privileges imposed under this section must be consecutive to any period of suspension imposed under IC 31-37-5-7. However, if the juvenile court finds in the sentencing order that it is in the best interest of society, the juvenile court may terminate all or any part of the remaining suspension under IC 31-37-5-7.

(i) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

SECTION 13. IC 31-37-19-17.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 17.4. (a) This section applies if a child is adjudicated a delinquent child because the child committed an act that, if committed by an adult, would be a crime under IC 9-24-18-4(b) (permitting a motor vehicle to be driven by another person whose driver's license is suspended).**

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1       (b) The juvenile court shall, in addition to any other order or  
2       decree the court makes under this chapter, order the bureau of  
3       motor vehicles to:

4           (1) suspend the child's operator's license; or

5           (2) invalidate the child's learner's permit;  
6       under IC 9-30-5-10.5 in the same manner as the bureau of motor  
7       vehicles is required to suspend the driving privileges of a person  
8       convicted of permitting a motor vehicle to be driven by another  
9       person whose driver's license is suspended.

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